

Establishment and termination of a membership in a cooperative society

Membership in a cooperative society is a basic cooperative relationship due to the fact that a cooperative society is a corporation which cannot exist without personal substrate and which cannot have solely one member. The understanding of establishment and termination of a membership is hence essential for the mere existence of a cooperative society.

The task of this thesis is to describe in detail the means of establishment and termination of a membership in a cooperative society. This thesis provides a comprehensive explanation of individual means, especially with respect to the terms and their legal consequences. My goal was to point out the problematic issues and describe how those issues are resolved in theory and how they are solved by legal practice. I also attempted to compare those issues with foreign regulation, especially with German and Austrian ones. It was necessary to compare the Czech regulation with international cooperative principles since the Czech understanding of a cooperative law is frequently challenged by misunderstanding of those principles.

Apart from the general principles applicable to all cooperative societies, I was in detail describing housing cooperative associations and European cooperative society (SCE).

This thesis was written during the re-codification of a Czech private law, which is mostly associated with a re-codification of a Czech Civil Code as well as with a law about business corporations. Both codes should become effective on January 1st, 2014. It was crucial to reflect this new codification in my thesis, thus I compared every individual mean of establishment and termination of a cooperative society with the new codification.

With respect to the above mentioned, I decided to narrow down the scope of this thesis, leaving out certain issues like settlement amount or interest on liquidation balance, since the thesis would then become enormously large at the expense of preciseness and would become rather descriptive.

In my opinion, the effective legal regulation of cooperative society is inconvenient and frequently conflicts the principles on which the cooperative society is

founded. In comparison to the foreign regulation (except of French), the inclusion of cooperative society into the Czech Commercial Code is justly criticized. The inclusion implies that the cooperative association is set equal to business corporations. Also, the fragmentation of the regulation is frequently criticized, especially in the case of housing associations, where the regulation is enshrined in its essential part in the Civil Code, which so becomes the *lex specialis*. In case of membership interest transfer in housing cooperative association are the standards totally inadequate and thanks to the judicial practice completely opposite to the purpose of housing cooperatives.

I personally approve the new legislation which consists of a completely new concept of cooperative share, and most of the glaring problems are removed.

In the Czech society, the cooperative societies are (mostly wrongly) perceived as a residue of the totalitarian period, for nourishing their existence and development in addition to reasonable regulation will be absolutely crucial the legal practice.

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